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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,575	05/26/2005	Sean Phillips	18801-00797	9932
7590 Todd A Benni McDonald Hopkins Company Suite 2100 600 Superior Avenue E Cleveland, OH 44114			EXAMINER BOEHLER, ANNE MARIE M	
			ART UNIT 3611	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,575

Applicant(s)

PHILLIPS ET AL.

Examiner

Anne Marie M. Boehler

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/17/2005</u> . | 6) <input type="checkbox"/> Other: ____ |

1. Claim 15 is objected to because of the following informalities: "said guide channel" lacks antecedent basis in the claims. Appropriate correction is required.
2. following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Tusó (USPN 2,807,477).

Tusó shows an adjustable fifth wheel hitch with a support frame having a pair of rails 36, an adjusting assembly coupling the head assembly to the rails in two positions, a locking assembly 92 and a cam assembly 128 cammingly engaging a cam surface 134, on a locking arm 108 of the locking assembly. The rails have a round cross section. A spring 118 provides a retaining device for locking arm 108 to prevent it from disengaging from the locked position.

4. Claims 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindenman (PGPub 2003/0034631).

Lindenman shows a fifth wheel hitch with a pair of guide rails 16, a head assembly, an adjustment assembly 32 and a locking assembly 70-90 for releasably

locking the hear assembly in different positions. The adjustment assembly includes side plates 32, 34 with a roller 36, 36', 36", mounted between the plates.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindenman in view of Tusso.

Lindenman shows all of the claimed features except a locking cam engaging a cam surface on the locking arm to position the locking arm between locked and unlocked positions.

Tusso teaches providing a locking cam 128 for moving the locking arm of a locking assembly between locked and unlocked positions.

It would have been obvious to one of ordinary skill in the art to provide the Lindenman device with a locking arm, as taught by Tusso, in order to assist in unlocking the adjustment assembly. Regarding claims 11, it would also have been obvious to make the guide rails round, as taught by Lugash, for ease in manufacture.

7. Claims 14, 15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindenman and Tusso as applied to claims 9-13 and further in view of Thurman (USPN 3,428,336).

The combination includes all of the claimed features except a guide stud extending from the guide rail and a channel guide to receive the stud.

Thurman shows a movable hitch with guide channels 130, 132 (Figure 9) for receiving studs (ends of rod 138) to guide longitudinal travel of the hitch assembly.

It would have been obvious to one of ordinary skill in the art to provide the combination assembly with guide channels and studs, as taught by Thurman, in order to guide longitudinal travel of the assembly.

8. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindenman in view of Thurman (USPN 3,428,336).

The Lindenman includes all of the claimed features except a guide stud extending from the guide rail and a channel guide to receive the stud.

Thurman shows a movable hitch with guide channels 130, 132 (Figure 9) for receiving studs (ends of rod 138) to guide longitudinal travel of the hitch assembly.

It would have been obvious to one of ordinary skill in the art to provide the Lindenman assembly with guide channels and studs, as taught by Thurman, in order to guide longitudinal travel of the assembly

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lugash shows a fifth wheel hitch mounted on round guide rails.

Linger and Stack each show movable fifth wheel with a cam operated latch.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-


Application/Control Number:
10/536,575
Art Unit: 3611

Page 5

272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 11/13/07
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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